 <b>Missouri Department of Natural Resources Administrative Policies and Procedures</b>		
<b>Chapter 5 Employee Benefits</b>		
<b>Temporary Modified Duty Policy</b>	<b>Effective date</b>	<b>Revised</b>
<b>Number: 5.10</b>	<b>November 15, 2002</b>	

An employee with a temporary medical condition that may not allow them to carry out their normal work duties could have their work duties temporarily modified during recovery. If the medical condition is a work-related injury or illness covered under the Workers' Compensation Act, all Workers' Compensation statutes, policies and regulations apply.

## REFERENCES

Missouri State Employee's Retirement System (MOSERS) - Long Term Disability Plan Handbook and Long Term Disability Plan Handbook Supplement

Title 1, Americans with Disabilities Act

Missouri Office of Administration, Central Accident Reporting Office 1-888-622-7694

Missouri Department of Labor and Industrial Relations Division of Workers Compensation  
Employee Hotline: 1-800-775-2667 Employer Hotline: 1-888-837-6069

### ***Related DNR policies:***

Employee Records 1.03  
Leave with Pay 5.01  
Leave without Pay 5.02  
Family and Medical Leave Act 5.03  
ShareLeave 5.04  
Workers' Compensation 5.09


### ***Related Divisional policies:***

Division of State Parks Temporary Modified Duty Policy and Procedures

## DEFINITIONS

***Immediate supervisor:*** A supervisor with the authority to approve an employee's requests for administrative needs such as approving time sheets, requests for leave.

***Permanent:*** A period exceeding one calendar year in duration.

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*Permanent medical condition:* A permanent alteration of an employee's normal physical or psychological conditions that increases health risks associated with the employee usual work environment, conditions or activities.

*Temporary:* A period not to exceed 180 calendar days in duration.

*Temporary medical condition:* A temporary alteration of an employee's normal physical or psychological condition that increases health risks associated with the employee's usual work environment, conditions or activities.

*Temporary modified duty (TMD):* An employee's regular work assignment modified to meet the employee's temporary health restrictions delineated by the treating physician.

*Treating physician:* The physician selected or approved by the Office of Administration's Central Accident Reporting Office under the provisions of the Workers' Compensation Act.

## **GENERAL PROVISIONS**

Temporary modified duty applies to two situations:


- The employee has sustained a work-related injury. Temporary modified duty can then be part of an early return to work program under Workers' Compensation.
- The employee has sustained an injury unrelated to work. Temporary modified duty can then be requested, but it does not follow Workers' Compensation provisions.

All involved in the review or approval of TMD must maintain confidentiality of all medical information.

All employees with a temporary medical condition may be eligible for TMD. An employee under progressive disciplinary action may not be eligible for TMD.

In general there are four options:

- Request temporary modified duty
- Use accrued leave
- Consider other employment
- Consider disability options such as long term disability

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If the supervisor feels there are too few possible job duty options to recommend TMD, he/she should work with his/her chain of command for assistance in determining a course of action.

#### **Temporary modified duty for Workers' Compensation situations**

The treating physician of an employee under Workers' Compensation may recommend an early return to work for that employee with temporary modified job duties according to the temporary restrictions outlined by the physician. For these situations, the treating physician determines the duration of the temporary modified duty. The procedures for temporary modified duty should be followed in developing the work plan.

Please refer to the department's Workers' Compensation Policy for more information. Additional assistance is available from the Office of Administration's Central Accident Reporting Office that is responsible for Workers' Compensation benefits, or the Department of Labor and Industrial Relation's Division of Workers' Compensation.

#### **Temporary modified duty for injuries other than those covered by Workers Compensation**

Temporary modified duty may be provided for a maximum of ninety (90) calendar days with approval of the division director or designee through the chain of command. Three thirty (30) day extensions may be approved by the division director or designee through the employee's chain of command. The duration of TMD will not exceed 180 calendar days.


An employee approved for TMD for non-work related injury is considered in working status and eligible for the provisions of the Family Medical Leave Act.

#### **Conditions for temporary modified duty**

The employee may work at any duties for which he/she is qualified at or below their current pay range duties. Efforts will be made to accommodate the TMD within the employee's current job duties. If the current job duties cannot be modified, other jobs within the department may be considered as alternate duty.

#### **Pay status while on temporary modified duty**

While on TMD, employees will be paid their regular salary if working full-time or at a pro-rated wage based on their percentage of full time work. In the event an employee is reclassified for temporary modified duty, the equivalent salary for that classification will be applied according to standard hiring and promotional formulas. Employees will not be paid a salary while collecting

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Workers' Compensation Temporary Total Disability (TTD) benefits.

### **To end temporary modified duty**

The temporary modified duty will continue until the treating physician determines the employee may be released to full duty; that permanent medical restrictions now apply; or at the end of the time period allowed for TMD.

Once the considerations of this policy are exhausted, the employee must choose one of the following options:


- a. Request a permanent transfer
- b. Request an appropriate leave of absence
- c. Resign

If the employee does not choose one of the above options, the supervisor should request through his/her chain of command to dismiss the employee.

### **Second medical opinion**

Employees may seek a second medical opinion to determine allowable activities for TMD. The cost of the second medical opinion may be the employee's responsibility.

If the employee's supervisor believes a second medical opinion is needed, the supervisor will provide a written request through the chain of command to the division director. The request will detail that another doctor should be contracted by the department to examine the employee, provide a diagnosis, prognosis and recommendations concerning the employee's medical condition and any medical restrictions. In this situation, the choice of physician is at the discretion of the department and the employee's work unit will pay the physician costs. The employee is in working status during the supervisor required evaluation and any associated travel time or costs will be reimbursed. An employee refusing to participate in a department requested medical examination may be subject to disciplinary action or dismissal unless mitigating circumstances require other action.

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In addition, the Central Accident Reporting Office (CARO) may request the second medical opinion for work related injuries.

#### **Change of physician during recovery period**

If the employee changes physicians during the approved TMD the employee shall provide the new physician all the medical and departmental information concerning the TMD. This new physician shall continue evaluation of the employee as provided in the approved TMD agreement. The department can request verification that the previous physician's evaluation still pertains.

#### **MOSERS partial disability and temporary modified duty**

The Missouri State Employee's Retirement System (MOSERS) may provide partial disability payments if an employee with a temporary medical condition is unable to earn more than 80% of his/her pre-disability earnings. An employee approved for TMD may qualify for partial payments, particularly if the duty requires part time work and the employee's wages are not more than 80% of the pre-disability earnings. See *Missouri State Employee's Retirement System (MOSERS) - Long Term Disability Plan Handbook* and *Long Term Disability Plan Handbook Supplement* for more detail concerning this partial disability payment program and its return to work incentives.

#### **Long term disability and a temporary medical condition**

The Missouri State Employee's Retirement System (MOSERS) sets a 90-day waiting period from the last full day of work to the effective date of long-term disability payments. If an employee returns to work before the 90 days and suffers comparable injury, the waiting period may be extended by the number of days worked. The supervisor, the employee, and the attending physician should pay close attention to the employee's condition in the first 90 days of TMD. If an employee feels his/her injury or illness is not temporary and the treating/attending physician can certify this, he/ she may wish to file a claim for long-term disability benefits. An employee receiving long term disability benefits is not eligible for TMD.

Assistance in implementing the terms of this policy is available from the Human Resource Program, the Employee Relations Officer, or the division's Human Resources Liaison.